

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ANTHONY MITCHELL,

Plaintiff,

v.

ROBERT BARTIK, *et al.*,

Defendants.

ORDER

21-mc-05

Before the court is a Rule 45(g) motion to hold in contempt third-party witness Antonio Shaw, a resident of this judicial district who has not yet complied with the August 9, 2021 Order by the U.S. District Court for the Northern District of Illinois that Shaw comply with the deposition subpoena served on him by the defendants in the above-titled case, No. 20-cv-3119 in the home district. Defendants have asked for an identical order in Case No. 20-cv-311 filed against these same defendants by plaintiff JohnFulton.

Defendants in the underlying action report that on April 22, 2021 they served Shaw with a subpoena duces tecum to be deposed on May 10, 2021 in La Crosse, Wisconsin, just south of Shaw's residence in Onalaska. On April 30, 2021, Shaw advised defendants that he did not intend to comply with the subpoena; on May 10, 2021, he failed to appear. In a June 17, 2021 telephone call, Shaw told defendants to "go to the judge." They did, and Judge Lefkow entered the order referenced above.

This is Shaw's last chance. I'm giving him a week to contact defendants' attorneys to set up a firm date to be deposed in La Crosse. If he fails to do so—or if he fails to show up for the deposition he schedules—then this court *will* hold him in contempt, and the court likely will order Shaw imprisoned until he sits for the deposition. *See, e.g., United States v. Iacona*, 2020 WL 6161171 at *2 (N.D. Ill. 2020). At his deposition, Shaw is not forbidden from making bona

fide claims of his privilege against self-incrimination in response to particular questions that actually implicate his Fifth Amendment rights. *See, e.g., Strike 3 Holdings, LLC v. Doe*, 2021 WL 3511124 at *3 (D. MD. 2021); *Alridge Elec., Inc. v. Fidelity and Deposit Co. of Maryland*, 2006 WL 2536687 at **3-5 (N.D. Ill. 2006).

ORDER

It is ORDERED that:

(1) Antonio Shaw shall comply with the August 9, 2021 order entered by the U.S. District Court for the Northern District of Illinois;

(2) As soon as possible, but not later than noon on August 27, 2021, Shaw must contact the attorneys for the defendants in this case and must schedule a firm date to be deposed; and

(3) Shaw must attend the scheduled deposition and must provide sworn testimony in response to the questions posed to him.

Entered this 20th day of August, 2021.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge